



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,497	03/28/2001	Pamela S. Yegge	P04838US0	4781

22885 7590 05/23/2003
MCKEE, VOORHEES & SEASE, P.L.C.
801 GRAND AVENUE
SUITE 3200
DES MOINES, IA 50309-2721

EXAMINER

NGUYEN, DINH X

ART UNIT	PAPER NUMBER
----------	--------------

3626

DATE MAILED: 05/23/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

146

Office Action Summary	Application No. 09/819,497	Applicant(s) YEGGE ET AL.	
	Examiner Dinh X. Nguyen	Art Unit 3626	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-37 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
 If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
 * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
 a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

The abstract of the disclosure is objected to because at lines 6 and 10, the word "invention" is used, which is a legal phraseology. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC §101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requires of this title.

Claims 1-14 and 19-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The basis of this rejection is set forth in a two-prong test of:

Art Unit: 3626

- (1) whether the invention is within the technological arts; and
- (2) whether the invention produces a useful, concrete, and tangible result.

For a claimed invention to be statutory, the claimed invention must be within the technological arts. Mere ideas in the abstract (i.e., abstract idea, law of nature, natural phenomena) that do not apply, involve, use, or advance the technological arts fail to promote the "progress of science and the useful arts" (i.e., the physical sciences as opposed to social sciences, for example) and therefore are found to be non-statutory subject matter. For a process claim to pass muster, the recited process must somehow apply, involve, use, or advance the technological arts.

In the present case, the claims are directed to a method of reducing the risk of a producer for overinsuring or underinsuring of crops, which is considered to produce a useful, concrete and tangible result. However, the claims are not considered to be within the technological arts since they do not recite any method of using technology. Examiner recommends adding language to the body of the claim language to include using a computer or computer program as similar to those claims not rejected under 101 in the pending application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admission in view of Schneider, US Pub. No. 2002/0103688 or Remley et al., US Pub. No. 2002/0023052 or Turberville et al., US Pub. No. 2001/0027437 and further in view of Williams, USPN 5,960,415 (as cited in Applicant's IDS) or Bosco et al., USPN 5,191,522 or Official Notice or examiner's personal knowledge.

As per claim 1, Applicant's admission at pages 1-4 admits that methods of insuring crops is old and well-known in the art. Applicant appears to disclose that it is not well-known that methods exist for determining a level of crop insurance for a producer that reduces the risk the producer will be either overinsured or underinsured, the method having the all of the following steps: estimating future expenses for the producer for a predefined period;

calculating a break even point as the total of the estimated future expenses; providing a production yield history for the producer; providing a crop insurance unit guarantee; and determining a level of crop insurance for the producer based upon the production yield history, the crop insurance unit guarantee, and the break even point, such that the level of crop insurance provides an assured income substantially equal to the break even point. However, these steps are old and well-known in the art as demonstrated below.

Examiner assert that any producer would want to determine a level of crop insurance for a producer that reduces the risk the producer will be either overinsured or underinsured. When one buys insurance for any purpose, it is to the best interest

of oneself to make sure one is not underinsured or overinsured, in order to maximize profit and protection, as well as preventing over payment of premiums. Examiner takes official notice that this is universal in the insurance business and would be applicable to any form on insurance, including agricultural.

As for the steps of estimating future expenses for the producer for a predefined period; and calculating a break even point as the total of the estimated future expenses; providing a production yield history for the producer; providing a crop insurance unit guarantee; and determining a level of crop insurance for the producer based upon the production yield history, the crop insurance unit guarantee, and the break even point, such that the level of crop insurance provides an assured income substantially equal to the break even point, Examiner assert that these steps are all relevant in risk analysis for a producer.

See for example: Schneider at abstract; figure 1; paragraphs 1, 10, 22, 52, 55, 88-90, 130, and 151. Schneider teaches using computer programs to aid farm management by examining insurance, production yield history, examining upper and lower limits of certain factors (which would involve break even points), using computer network communications for such, providing multiple analysis in time, using tabular and graphical display of information and providing a "bundling" of information (see page 10 pertaining to insurance, contract prices, estimated crop price and minimum or maximum values).

See Remley et al. at figure 1; paragraphs 2-7, 11-15, 22, 25, 27-28, 36, 40-41 and 68-70. Remley et al. teach that in order to reduce risks for agricultural

transactions, one may examine actual values as well as bench marks (or estimated and targetted values), as well as other factors pertaining to profitability, which includes livestock as well as crops, and make use of guarantors which guarantees contracts, a way which producer some insurance or protection in case of certain events happening.

See Turbeville et al. at paragraphs 6-7, 18-19, 37, 40, 42, 46 and 49-50. Here, Turbeville et al. teach that for risk management, one may perform risk transfer analysis for future contracts dealing with crops and agricultural products for producers. One may look at liquidity factors, position data to analyze credit risks or insurance, and the disclosed system may use ROM, digital storage as well as network communications to compete the tasks.

Williams teaches using spreadsheets in the forecast of data with monthly revisions, at abstract, col. 3 lines 45-48 for example. Also, Bosco et al. teach using spreadsheets and relational database for insurance evaluation at abstract, col. 2 lines 52-60, col. 5 lines 23-32, and col. 6 lines 39-45.

Finally, Examiner takes official notice and basing on Examiner's personal knowledge (from taking graduate business classes), that the it is well known in the business world that in analyzing one's business, it is common to do risk-benefit analysis, in examining a company's well being, determining examining insurance coverage is prudent, and other factors such as break even points, estimated future expenses, production yield history, unit guarantees, etc. are all relevant in risk-benefit analysis and determining the well being of a company.

Thus, based on the prior art listed above, official notice and examiner's personal knowledge, it would have been obvious to one of ordinary skill in the art, such as that of a producer in an agricultural business as disclosed by Applicant, to determine a level of crop insurance for a producer that reduces the risk the producer will be either overinsured or underinsured, with a method having the all of the following steps: estimating future expenses for the producer for a predefined period;

calculating a break even point as the total of the estimated future expenses; providing a production yield history for the producer; providing a crop insurance unit guarantee; and determining a level of crop insurance for the producer based upon the production yield history, the crop insurance unit guarantee, and the break even point, such that the level of crop insurance provides an assured income substantially equal to the break even point. The motivation is well known for risk-benefit analysis.

As per independent claims 11, 15, 19, 21, 22 and 29 note the following. The methods as well as apparatus as claimed are disclosed in the prior art as cited above. With respect to claim 11, the examining of future and estimated income, expenses as well as actual values are discussed above. These factors are well known in the business world. The motivation for claim 1 is incorporated herein.

With respect to claim 15, the use of software programs and a computer to manage business is well known in the art, and also shown in the prior art above. Examiner takes official notice that using spreadsheets and programs such as Microsoft EXCEL (Trademark), for data analysis is old and well known in the art. The motivation for claim 1 is incorporated herein.

With respect to claims 19 and 20, the determining of profitability goals, as well as other factors in the agricultural business in entering sales contract is discussed above and cited in the prior art. The motivation for claim 1 is incorporated herein.

Claims 22 and 29 are claims for software articles incorporating the methods as claimed. The use of computer programs and computer to implement the claimed method has been discussed above for claim 1 and the motivation is incorporated herein.

As for dependent claims 2-10, 12-14, 16-18, 20, 23-28 and 30-37, see above citations which cover all these nuances. Note that absent a showing of criticality, various factors such as type of crops, number of crops, how production yield history is provided, or the type of monetary guarantee, the length of a risk analysis, the type of data storage and communication means, are all considered design choices.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh X. Nguyen whose telephone number is (703) 305-3522. The examiner can normally be reached on Monday to Thursday and alternate Fridays..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on (703) 305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are (703)

Application/Control Number: 09/819,497

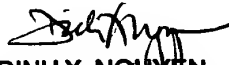
Page 9

Art Unit: 3626

305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

dxn
May 18, 2003


DINH X. NGUYEN
PRIMARY EXAMINER